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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,841	05/11/2001	Raymond F. Ratcliff III	40017660-0003	6728

909 7590 06/14/2004  
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EXAMINER

HIRL, JOSEPH P

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 06/14/2004

11

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

**Application No.**

09/853,841

**Applicant(s)**

RATCLIFF, RAYMOND F.

**Examiner**

Joseph P. Hirl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. 10.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This Office Action is in response to an AMENDMENT entered April 2, 2004 for the patent application 09/853,841 filed on May 11, 2004.
2. The First Office Action of October 8, 2003 is fully incorporated into this Final Office Action by reference.

### ***Status of Claims***

3. Claims 1, 9, 14, 17 and 22 are amended. Claims 1-24 are pending.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Kurowski et al (US Pub 2002/0019844, referred to as Kurowski).

### ***Claim 1***

Kurowski anticipates providing an algorithm including a plurality of

algorithm portions (**Kurowski**, Fig. 3; p 0061); providing data including a plurality of data portions (**Kurowski**, Fig. 3; p 0061); sending, responsive to a request signal from one of the data processing devices, the task to the one data processing device over the data network, wherein the task includes both at least one of the algorithm portions and at least one of the data portions (**Kurowski**, p 0154; Examiner's Note (EN):

asynchronous transmission of task material is acceptable); performing, by the processor of the data processing device, the at least one algorithm portion on the one data portion (**Kurowski**, p 0156); and providing the reward to a recipient associated with the one data processing device (**Kurowski**, p 0079).

***Claims 2, 10, 18***

Kurowski anticipates the reward is a payment (**Kurowski**, ps' 0060, 0079).

***Claims 3, 11, 19***

Kurowski anticipates the payment is a flat fee (**Kurowski**, p 0060; EN: to one of ordinary skill in the art, rates charged for "other differentiated service attributes" would include an obvious flat fee).

***Claims 4, 12, 20***

Kurowski anticipates the payment is a recurring flat fee (**Kurowski**, p 0060; EN: to one of ordinary skill in the art, rates charged for "other differentiated service attributes" would include an obvious recurring fee).

***Claims 5, 13, 21***

Kurowski anticipates the payment is a one-time fee (**Kurowski**, p 0060; EN: to one of ordinary skill in the art, rates charged for “other differentiated service attributes” would include an obvious recurring one-time fee).

***Claims 6, 14, 22***

Kurowski anticipates , the payment is a fee computed based on CPU time that the processor used to perform the at least one portion of the algorithm on the at least one portion of the data (**Kurowski**, p 0060) .

***Claims 7, 15, 23***

Kurowski anticipates the payment is a revenue sharing fee (**Kurowski**, claim 55; p 0060).

***Claims 8, 16, 24***

Kurowski anticipates the payment is a recurring service-sharing fee **Kurowski**, claim 55; p 0060).

***Claim 9***

Kurowski anticipates providing, by an originating module, instructions representing at least one portion of an algorithm to the at least one data processing device coupled to the network, wherein the instructions are to be executable by the processor of the at least one data processing device (**Kurowski**, Fig. 3; ps 0040, 0061; EN: to one of ordinary skill in the art, programs are in essence an assembly of algorithms and a task server will assign tasks or algorithms for execution by the PC); storing the instructions in the at least one data processing devices (**Kurowski**, Fig. 3; ps

0040, 0061; EN: PCs store data and algorithms); sending, by the originating module, at least one portion of data to the at least one data processing device (**Kurowski**, Fig. 3; ps' 0040, 0061; EN: file server can be the source of the data for the PC); retrieving, by the processor of the at least one data processing device, the instructions; executing the instructions, by the processor of the at least one data processing device, to perform the at least one portion of the algorithm on the at least one portion of data (**Kurowski**, Fig. 3; ps 0040, 0061; EN: PC operation); and, providing the reward to the recipient associated with the at least one data processing device (**Kurowski**, p 0079).

***Claim 17***

Kurowski anticipates an originating module coupled to the data network (**Kurowski**, Fig. 3; p 0061; EN: originating module can be the assembly of file, task and app servers), the originating module capable of: i) receiving the algorithm and the data (**Kurowski**, p 0061; EN: servers are PC with memory), ii) extracting the plurality of algorithm portions from the algorithm and the plurality of data portions from the data (**Kurowski**, Fig. 3; p 0061);, iii) sending at least one of the algorithm portions to one of the processing devices over the network (**Kurowski**, Fig. 3; p 0061), and iv) sending at least one of the data portions to the one of the processing device over the network (**Kurowski**, Fig. 3; p 0061); a result collation module in communication with the originating module and a processor of the one of the plurality of processing devices, the result collation module capable of: (**Kurowski**, p 0061; EN: from the specification, pg 19, l 18-24, originating server and collation server may not be separated and hence the system of servers described above contains the result collation module); i) receiving a

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result signal from the processor of the one of the plurality of processing devices, the result signal indicating the one processor has completed performing the one algorithm portion on the one data portion (**Kurowski**, p 0079), and ii) providing a reward signal after receiving the result signal (**Kurowski**, p 0079: EN: with the award contingent with completion of a given amount of computing time, the use of such time is the signal for award); and a reward module in communication with the result collation module, the reward module capable of: (**Kurowski**, p 0079; EN: administrative processing is part of the task server): i) receiving the reward signal from the collation module (**Kurowski**, p 0079), ii) identifying a recipient associated with the one of the plurality of processing devices after receiving the reward signal (**Kurowski**, p 0079) , and iii) providing the reward to the identified recipient (**Kurowski**, p 0079).

### ***Response to Arguments***

5. The rejection of claims 6, 14, and 22 under 35 USC 112, second paragraph, is withdrawn.

6. Applicant's arguments filed on April 2, 2004 related to Claims 1-24 have been fully considered but are not persuasive.

In reference to Applicant's argument:

Kurowski et al. disclose a distributed computing system, in which there are at least three logical servers, namely a task server, a .File server, and an application server, that are necessary to manage the task flow in the distributed computing system (See abstract, Fig. 2, Fig. 3). Particularly, each of the logical servers may comprise a plurality of physical computers that are distributed at geographically separate locations (see paragraph 42). That is, there may be a plurality of task servers, a plurality of file servers, and a plurality of application servers. This forms a distributed infrastructure without a center (see paragraph 42).

In Kurowski's system, there is a plurality of clients whose processors may be used to perform computations. The essential teaching in Kurowski et al. is a client software downloaded on each of the

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clients to control communications with three different types of servers in order to achieve distributed computing (see paragraph 40). Notice here, a client machine is required to, via the disclosed client software, actively initiate interactions with three types of servers (see abstract, Fig. 3, and paragraph 61) before a client machine can start to perform computing. Particularly, when a task server assigns a task to a client, it sends only the information that "the client needs to determine how it can run the next task: unique computational module ID; computational module version number; URL to get the computational module, ..." (see paragraph 154). That is, after contacting the task server, the client must additionally, on its own initiative: and controlled by the client software running on the client machine, communicate with a separate file server to download the application module using the information provided by the task server and, furthermore, communicate with a third separate application server to download input data for the application module (see abstract, paragraph 61, paragraphs 154 and 155) before the client can start to perform the assigned task.

The Applicant claims a parallel data processing system, in which an originating module, sends a task, comprising at least one of a plurality of algorithm portions and at least one of a plurality of data portions, to data processing device (client) for computation when the task is assigned to the processor of the data processing device, as recited in the amended claims 1 and 17. That is, when a task is assigned to a processing device, it is also sent to the processor of the processing device. The processing device does not need to separately communicate with other servers to obtain the task instructions and the data needed in order to start to perform the assigned task.

#### Examiner's response:

Para 9 below applies. The claims and only the claims form the metes and bounds of the invention. The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Generally only matters related to the claims are of material interest and can be the subject of arguments. The arguments provided are not directed to claims. Notwithstanding this concern, the Applicant's issue seems to focus on the processing device does not need to separately communicate with other servers. Since claims 1 and 17 use the term "comprising", as long as an event of prior art qualifies, a plurality of similar events in that prior art is inconsequential. Hence, the applicant does not have a standing point regarding "does not need to separately communicate with others." Kurowski at para 0040 makes no mention of three types of servers in order to achieve distributing computing. From claim 1, step 4: "sending, from an originating module, a task to the one data processing device coupled to the network over the network, wherein the task includes both at least one of the algorithm portions and at



least one of the data portions;" ... allows the prior art of Kurowski to be appropriate by recognizing that the task as sent does not have to contain both the algorithm and data at the time it is sent ... from the singular sender ... the process can be asynchronous ... from several sources ... as long as the required algorithm and data are resident at the one data processing device sometime in the future. That there might even be a third exchange with another server is really of no consequence. The point the Examiner wishes to make to the Applicant is the concern for claims and the obligation that the Examiner has to interpret the claims in the broadest reasonable manner.

### ***Examination Considerations***

7. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

8. Examiner's Notes are provided to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

9. Examiner's Opinion

Paras 7 and 8 apply. The prior art of Kurowski is quite strong.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Claims 1-24 are rejected.

***Correspondence Information***

Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner, Joseph P. Hirl, whose telephone number is (703) 305-1668. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anthony Knight can be reached at (703) 308-3179.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,

Washington, D. C. 20231;

or faxed to:

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(703) 746-7239 (for formal communications intended for entry);

or faxed to:

(703) 746-7290 (for informal or draft communications with notation of  
"Proposed" or "Draft" for the desk of the Examiner).



Joseph P. Hirl

June 9, 2004



**Anthony Knight**  
**Supervisory Patent Examiner**  
**Group 3600**